Amendment of section 160.

26. In section 160 of the said Act for the words "compensation, damages, costs or expenses" wherever they occur, the words "compensation or damages" shall be substituted.

New section 160A.

27. Below section 160 of the said Act the following section shall be inserted, namely :—

[Vol. IV of this Code.]

Amendment of section 161.

28. In section 161 of the said Act after the word "municipality" the following words shall be inserted, namely :

[Vol. IV of this Code.]

Amendment of section 177.

29. In section 177, sub-section (1), clause (*iii*) of the said Act—

(*a*) after the word "officer" the words "or a Municipal Commissioner" shall be inserted ; and

(*b*) the words "or by chapter XIIIA as the case may be" shall be added at the end.

Insertion of new sections.

30. Below section 186 of the said Act the following new sections shall be inserted, namely :—

[Vol. IV of this Code.]

THE BOMBAY TOWN PLANNING ACT, 1915.

CONTENTS.

SECTIONS.

CHAPTER I.—PRELIMINARY.

1. Short title and extent.
2. Interpretation-clause.
3. Contents of planning scheme.
4. Disputed ownership.
5. Right of entry.
6. Powers of local authority to borrow money and to make and execute a town planning scheme.
7. Notified areas.

CHAPTER II.—DECLARATION OF INTENTION TO MAKE A SCHEME, AND PREPARATION OF DRAFT SCHEME.

SECTIONS.

8. Land in respect of which a town planning scheme may be made.

9. Powers of a local authority to resolve on a declaration of intention to make a scheme and of the Governor in Council to sanction such declaration.

10. Preparation and publication of draft scheme.
Lapsing of sanction.

11. Contents of draft scheme.

12. Reconstituted plots.

13. Objections to the draft scheme to be considered.

14. Power of the Governor in Council to sanction a draft scheme.

15. Restrictions after declaration.

CHAPTER III.—FINANCE.

16. Costs of the scheme.

17. Calculation of increment.

18. Contribution towards the costs of the scheme.
Owner primarily liable for contribution.

19. Certain amount to be added to or deducted from the contribution leviable from a person.

20. Transfer of right from original to reconstituted plot, or extinction of such right.

21. Compensation in respect of property or right injuriously affected by scheme.

22. Exclusion or limitation of compensation in certain cases.

23. Provision for case in which amount payable to owner exceeds amount due from him.

24. Provision for case in which value of developed plot is less than amount payable by owner.

25. Payment by adjustment of account.

26. Payment of net amount due to local authority.

27. Power of local authority to make agreements.

28. Recovery of arrears.

CHAPTER IV.—THE ARBITRATOR AND THE TRIBUNAL OF ARBITRATION.

SECTIONS.

29. Appointment of arbitrator.
30. Duties of the arbitrator.
31. Certain decisions of the arbitrator shall be final.
32. Arbitrator shall make proposals in certain matters.
33. Constitution of the Tribunal of Arbitration.
34. Place where the Tribunal may sit.
35. Right to appear by recognised agent.
36. Decision of questions of law and procedure and other questions.
37. Powers of the Tribunal to decide matters finally.
38. Tribunal not a Court.
39. Remuneration of arbitrator and Assessor and payment of incidental expenses of Tribunal.
40. Final scheme.
41. Effect of final scheme.
42. Power of local authority to evict summarily.
43. Power to enforce scheme.
44. Power to compel attendance of witnesses.

CHAPTER V.—MISCELLANEOUS.

45. Joint town planning schemes.
45A. Vesting of property and rights of a local authority ceasing to exist or ceasing to have jurisdiction.
46. Power to vary or revoke a town planning scheme.
47. Compensation when final scheme is varied or revoked.
48. Governor in Council may himself or through any person exercise power or perform duty conferred or imposed on a local authority.
49. Bar of legal proceedings.
50. Registration of document, plan or map in connection with a final scheme is not required.
51. Land needed for purpose of town planning scheme may be compulsorily acquired.
52. Rules.

BOMBAY ACT No. I OF 1915.[1]

[*6th March, 1915.*]

An Act to provide for the making and execution of town-planning schemes.

WHEREAS it is expedient that the development of certain areas should be regulated with the general object of securing proper sanitary conditions, amenity and convenience to the persons living in such areas and in neighbouring areas;

AND WHEREAS the previous sanction of the Governor General required by section 5 of the [2]Indian Councils Act, 1892, has been obtained for the passing of this Act; It is hereby enacted as follows:—

CHAPTER I.—PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Bombay Town Planning Act, 1915.

(*2*) It shall extend in the first instance to the Island of Salsette, but the Governor in Council may by notification in the Bombay Government Gazette direct that it shall extend in whole or in part to any part of the Bombay Presidency:

Provided that this Act shall not be extended in whole or in part to the City of Bombay or any part thereof except on the previous application of the Municipal Corporation of the City of Bombay in this behalf to the Governor in Council, such application having been previously assented to by a majority of the whole of the Municipal Corporation.

Interpretation-clause.

2. In this Act, unless there is anything repugnant in the subject or context:—

(*a*) "local authority" means a Municipality or, where there is no Municipality, a committee appointed for a notified area under the provisions of Chapter XIV of the [3]Bombay District Municipal Act, 1901, as modified by this Act;

Bom. Act III of 1901.

(*b*) "prescribed" means prescribed by rules made under this Act;

(*c*) "owner" includes an owner in severalty, in common or joint; and includes also an occupant as defined in clause (*16*) of section 3 of the [4]Bombay Land Revenue Code, 1879;

Bom. Act V of 1879.

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1913, Part VII, page 845; for Report of Select Committee, *see ibid*, 1914, Part VII, page 510; and for Proceedings in Council, *see ibid*, 1914, Part VII, page 78; *ibid*, 1915, page 11.

[2] See now section 80-A of the Government of India Act.

[3] Vol. IV of this Code.

[4] Vol. II of this Code.

(*d*) "plot" means a continuous portion of land held in one ownership, other than land used, allotted or reserved for any public or municipal purpose;

(*e*) "reconstituted plot" means a plot which is in any way altered by the making of a town planning scheme otherwise than by the severance of land used, allotted or reserved for any public or municipal purpose.

Explanation.—"Altered" includes alteration of ownership.

(*f*) "scheme" includes a plan relating to a town planning scheme.

Contents of planning scheme.

3. A town planning scheme may make provision for any of the following matters :—

(*a*) the construction, diversion, alteration and stopping up of streets, roads and communications;

(*b*) the construction, alteration, and removal of buildings, bridges and other structures;

(*c*) the plotting out of land as building-sites whether such land is intended to be used for building purposes in the immediate future or not;

(*d*) the allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets and public purposes of all kinds;

(*e*) drainage inclusive of sewerage and of surface drainage and sewage disposal;

(*f*) lighting;

(*g*) water supply;

(*h*) the preservation of objects of historical interest or natural beauty and of buildings actually used for religious purposes or regarded by the public with special religious veneration;

(*i*) the imposition of conditions and restrictions in regard to the open space to be maintained about buildings, the number, height and character of buildings allowed in specified areas and the purposes to which buildings or specified areas may or may not be appropriated;

(*j*) the suspension, so far as may be necessary for the proper carrying out of the scheme, of any rule having the force of law, bye-law, Act, or other provision [1]*** which is in force in the area included in the scheme :

[1] The words "under whatever authority made" were repealed by section 3 and Schedule II of the Bombay Repealing and Amending Act, 1919 (Bom. Act 2 of 1919), *infra*.

[1] [Provided that it shall not be lawful to suspend in any such area any Act of Parliament or, without the sanction of the Governor General, any Act of the Governor General in Council.]

(*k*) such other matter not inconsistent with the objects of this Act as may be prescribed.

Disputed ownership.

4. (*1*) Where there is a disputed claim as to the ownership of any piece of land included in an area in respect of which any of the provisions of this Act are to be applied and any entry in the record-of-rights or mutation register relevant to such disputed claim is inaccurate or inconclusive, an enquiry may be held by such officer as the Governor in Council in the City of Bombay or the Commissioner elsewhere may appoint for the purpose of deciding who shall be deemed to be the owner for the purposes of this Act.

(*2*) Such decision shall not be subject to appeal but it shall not operate as a bar to a regular suit.

(*3*) Such decision shall, in the event of a Civil Court passing a decree which is inconsistent therewith, be corrected, modified or rescinded in accordance with such decree as soon as practicable after such decree has been brought to the notice of the local authority either by the Civil Court or by some person affected by such decree.

Right of entry.

5. For the purpose of the preparation, making, or execution of any town planning scheme any person authorized by the local authority or any public servant or person duly appointed or authorised under this Act may, after giving such notice as may be prescribed to the owner, occupier or other person interested in any land, enter upon, survey and mark out such land and do all acts necessary for such purpose.

Powers of local authority to borrow money and to make and execute a town planning scheme.

6. (*1*) A local authority as defined in this Act shall be deemed to be a local authority as defined in the [2]Local Authorities Loans Act, 1914, for the purpose of borrowing money under that Act, and the making and execution of a town planning scheme shall be deemed to be a work which such local authority is legally authorized to carry out.

IX of 1914.

(*2*) Any expenses incurred by a local authority under this Act or any town planning scheme made thereunder may be defrayed out of its funds.

Notified areas.

7. Notwithstanding anything contained in sub-section (*3*) of section 187 of the [3] Bombay District Municipal Act, 1901, the Governor in Council may declare any specified area, for which it is proposed to make a town planning scheme, to be a notified area.

Bom. Act III of 1901.

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[1] This proviso was added by section 2 and Schedule I, Part II, of the Bombay Repealing and Amending Act, 1919 (Bom. Act 2 of 1919), *infra*.

[2] General Acts, Vol. VIII.

[3] Vol. IV of this Code.

CHAPTER II.—Declaration of Intention to make a Scheme, and preparation of Draft Scheme.

Land in respect of which a town planning scheme may be made

8 (*1*) A town planning scheme may be made in accordance with the provisions of this Act in respect of any land which is in course of development or is likely to be used for building purposes.

(*2*) Where it appears to the Governor in Council that a piece of land already built upon, or a piece of land not likely to be used for building purposes is so situated with respect to any land which is in course of development or likely to be used for building purposes that it ought to be included in any town planning scheme intended to be made with respect to the last-mentioned land, the Governor in Council may sanction the making of a scheme including such piece of land as aforesaid, and providing for the demolition or alteration of any buildings thereon so far as may be necessary for carrying the scheme into effect.

(*3*) The expression "land likely to be used for building purposes" shall include any land likely to be used as, or for the purpose of providing, open spaces, roads, streets, parks, pleasure or recreation grounds, or for the purpose of executing any work upon or under the land incidental to a town planning scheme, whether in the nature of a building work or not, and the decision of the Governor in Council as to whether land is likely to be used for building purposes or not shall be final.

Powers of a local authority to resolve on a declaration of intention to make a scheme and of the Governor in Council to sanction such declaration.

9. (*1*) The local authority having jurisdiction over any such land as is referred to in section 8 may by resolution declare its intention to make a town planning scheme in respect of the whole or any part of such land and of any land which is in the vicinity of such land but which is not included in any other municipal or notified area, provided that for the making of such scheme the sanction of the Governor in Council shall be necessary.

(*2*) Within twenty-one days from the date of such declaration (hereinafter referred to as a declaration of intention to make a scheme), the local authority shall despatch a copy thereof for publication in the Bombay Government Gazette and shall publish it in the prescribed manner and shall apply to the Governor in Council for sanction for the making of such scheme.

(*3*) With its application for such sanction the local authority shall send to the Governor in Council a plan showing the area which it proposes to include in the town planning scheme and the surrounding lands.

(*4*) A copy of such plan shall be open to the inspection of the public at all reasonable hours at the head office of the local authority.

(*5*) If within one month from the date of such publication in the Bombay Government Gazette any person likely to be affected by such scheme communicates in writing to the Governor in Council any objection or suggestion relating to such scheme the Governor in Council shall consider such objection or suggestion.

(*6*) After receiving such application and after making such inquiry as he may think fit, the Governor in Council may, by notification in the Bombay Government Gazette, either sanction the making of such scheme with or without modifications and subject to such conditions as he may think fit to impose, or he may by a similar notification refuse to give sanction.

Preparation and publication of draft scheme.

10. (*1*) Within twelve months from the date of the notification sanctioning the making of a town planning scheme the local authority shall in consultation with the owners prepare, and publish in the prescribed manner, a draft scheme for the area in respect of which sanction has been given.

(*2*) If such publication is not made by the local authority within twelve months from the date of such notification, the Governor in Council in the City of Bombay or the Commissioner elsewhere may in consultation with the owners prepare, and publish in the prescribed manner, a draft scheme for the area in respect of which sanction has been given within a further period of nine months.

Lapsing of sanction.

(*3*) If such publication is not made by the Governor in Council or the Commissioner, as the case may be, within the further period specified in sub-section (*2*), the sanction of the Governor in Council for the making of such town planning scheme shall lapse, and until a period of three years has elapsed from the date of such sanction it shall not be competent to the local authority to apply for fresh sanction for the making of any town planning scheme for the same area or for any part of it.

Contents of draft scheme.

11. The draft scheme shall contain the following particulars :—

(*a*) the area, ownership and tenure of each original plot ;

(*b*) the land allotted or reserved under clause (*d*) of section 3, with a general indication of the uses to which such land is to be put ;

(*c*) the extent to which it is proposed to alter the boundaries of original plots ;

(*d*) an estimate of the net cost of the scheme to be borne by the local authority ;

(*e*) a full description of all details of the scheme under such clauses of section 3 as may be applicable ; and

(*f*) any other prescribed particulars.

Reconstituted plots.

12. (*1*) In the draft scheme the size and shape of every reconstituted plot shall be so determined as to render it, so far as may be, suitable for building purposes.

(*2*) In order to render original plots more suitable for building purposes the draft scheme may contain proposals.

(*a*) to form a reconstituted plot by the alteration of the boundaries of an original plot,

(*b*) to provide with the consent of the owners that two or more original plots each of which is held in ownership in severalty or in joint ownership shall hereafter, with or without alteration of boundaries, be held in ownership in common as a reconstituted plot,

(*c*) to allot a plot to any owner dispossessed of land in furtherance of the scheme, and

(*d*) to transfer the ownership of a plot from one person to another.

Objections to the draft scheme to be considered.

13. If within one month from the date of publication of the draft scheme any person affected by such scheme communicates in writing to the local authority any objection relating to such scheme the local authority shall consider such objection and may, at any time before submitting the draft scheme to the Governor in Council as hereinafter provided, modify such scheme as it thinks fit.

Power of the Governor in Council to sanction a draft scheme.

14. (*1*) The local authority shall then submit the draft scheme with any modifications which it may have made therein together with the objections which may have been communicated to it to the Governor in Council and shall at the same time apply for his sanction.

(*2*) After receiving such application and after making such inquiry as he may think fit, the Governor in Council may, by notification in the Bombay Government Gazette, either sanction such scheme with or without modifications and subject to such conditions as he may think fit to impose, or he may by a similar notification refuse to give sanction.

(*3*) If the Governor in Council sanctions such scheme, he shall in such notification state at what place and time the draft scheme shall be open to the inspection of the public.

Restrictions after declaration.

15. (*1*) When a local authority has published a declaration of intention to make a scheme—

(*a*) no person shall within the area included in the scheme erect or proceed with any building or work [1] [or remove, pull down or alter any building or part of a building or remove any earth, stone or

[1] These words were inserted by section 2 (*a*) of the Bombay Town Planning (Amendment) Act, 1920 (Bom. Act 13 of 1920), *infra*.

material] unless such person has applied for and obtained the necessary permission which shall be contained in a commencement certificate granted by the local authority in the form prescribed;

(*b*) the local authority on receipt of such application shall at once furnish the applicant with a written acknowledgment of its receipt, and after enquiry may either grant or refuse such certificate or grant it subject to such conditions as may be consistent with the scheme; but if the local authority communicates no decision to the applicant within three months from the date of such acknowledgment he shall be deemed to have been granted such certificate;

(*c*) if in the opinion of the local authority any person contravenes the provisions contained in clause (*a*) or clause (*b*), the local authority after making enquiry in the prescribed manner may by notice in writing direct such person to stop any work in progress;

(*d*) any expenses incurred by the local authority under clause (*c*) shall be a sum due to the local authority under this Act from the person in default;

[1] [(*e*) any diminution in the value of an original plot occasioned by any contravention of clause (*a*), or clause (*b*) shall, notwithstanding anything contained in sections 16, 17 or 19, be taken into account in fixing the market value of such plot.]

(2) No person shall be entitled to compensation in respect of any damage, loss or injury resulting from any action taken by the local authority under the provisions of this section or of section 43, except in respect of a building or work begun or a contract entered into before the date on which the local authority published a declaration of intention to make a scheme, and only in so far as such building or work has proceeded at the time of the publication of the declaration of intention to make a scheme.

(3) The restrictions imposed by this section shall cease to operate in the event of the Governor in Council refusing to sanction the making of a town planning scheme, or in the event of the sanction of the Governor in Council for the making of such scheme lapsing, or in the event of the Governor in Council refusing to sanction the draft scheme.

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[1] This clause was added by section 2 (*b*) of the Bombay Town Planning (Amendment) Act, 1920 (Bom. Act 13 of 1920), *infra*.

CHAPTER III.—FINANCE.

Costs of the scheme.

16. (*1*) The costs of a town-planning scheme shall include—

(*a*) all sums payable by the local authority under the provisions of this Act which are not specifically excluded from the costs of the scheme;

(*b*) all sums spent or estimated to be spent by the local authority in the making and in the execution of the scheme;

(*c*) all legal expenses of the local authority incurred in the making and in the execution of the scheme; and

(*d*) any amount by which the total of the values of the original plots exceeds the total of the values of the plots included in the final scheme, each of such plots being estimated at its market value at the date of the declaration of intention to make a scheme with all the buildings and works thereon at that date and without reference to improvements contemplated in the scheme other than improvements due to the alteration of its boundaries.

(*2*) If in any case the total of the values of the plots included in the final scheme exceeds the total of the values of the original plots, each of such plots being estimated in the manner provided in clause (*d*) of sub-section (*1*), then the amount of such excess shall be deducted in arriving at the costs of the scheme, as defined in sub-section (*1*).

Calculation of increment.

17. [1] [For the purposes of this Act the increment shall be deemed to be the amount by which at the date of the declaration of intention to make a scheme the market value of a plot included in the final scheme estimated on the assumption that the scheme has been completed would exceed at the same date the market value of the same plot estimated without reference to improvements contemplated in the scheme :]

provided that in estimating such values the value of buildings or other works erected or in the course of erection on such plot shall not be taken into consideration.

Contribution towards the costs of the scheme.

18. (*1*) The costs of the scheme shall be met wholly or in part by a contribution to be levied by the local authority on each plot included in the final scheme calculated in proportion to the increment which is estimated to accrue in respect of such plot by the Tribunal of Arbitration :

provided that—

(i) no such contribution shall exceed half the increment estimated by the Tribunal of Arbitration to accrue in respect of such plot; and

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1 This paragraph was substituted by s. 3 of the Bombay Town Planning (Amendment Act, 1920 (Bom. Act 13 of 1920), *infra*.

(ii) where a plot is subject to a mortgage with possession or to a lease, the Tribunal of Arbitration shall determine in what proportion the mortgagee or lessee on the one hand and the mortgagor or lessor on the other hand shall pay such contribution.

Owner primarily liable for contribution.

(2) The owner of each plot included in the final scheme shall be primarily liable for the payment of the contribution leviable in respect of such plot.

Certain amount to be added to or deducted from the contribution leviable from a person.

19. The amount by which the total value of the plots included in the final scheme with all the buildings and works thereon allotted to a person falls short of or exceeds the total value of the original plots with all the buildings and works thereon of such person shall be deducted from or added to, as the case may be, the contributions leviable from such person, each of such plots being estimated at its market value at the date of the declaration of intention to make a scheme and without reference to improvements contemplated in the scheme other than improvements due to the alteration of its boundaries.

Transfer of right from original to reconstituted plot, or extinction of such right.

20. Any right in an original plot which in the opinion of the arbitrator is capable of being transferred wholly or in part, without prejudice to the making of a town planning scheme, to a reconstituted plot shall be so transferred and any right in an original plot which in the opinion of the arbitrator is not capable of being so transferred shall be extinguished :

Provided that an agricultural lease shall not be transferred from an original plot to a reconstituted plot without the consent of all the parties to such lease.

Compensation in respect of property or right injuriously affected by scheme.

21. The owner of any property or right which is injuriously affected by the making of a town planning scheme shall, if he makes a claim before the arbitrator within the prescribed time, be entitled to obtain compensation in respect thereof from the local authority or from any person benefited or partly from the local authority and partly from such person, as the Tribunal of Arbitration may in each case determine :

Provided that the value of such property or right shall be held to be its market value at the date of the declaration of intention to make a scheme without reference to improvements contemplated in the scheme.

Exclusion or limitation of compensation in certain cases.

22. (1) Where property or a private right of any sort is alleged to be injuriously affected by reason of any provisions contained in a town planning scheme, no compensation shall be paid in respect thereof if or in so far as the provisions are such as would have been enforceable without compensation under any rule having the force of law, bye-law or Act in force at the time.

(2) Property or a private right of any sort shall not be deemed to be injuriously affected by reason of any provisions inserted in a town planning scheme, which, with a view to securing the amenity of the area included in such scheme or any part thereof, impose any conditions and restrictions in regard to any of the matters specified in clause (*i*) of section 3.

Provision for case in which amount payable to owner exceeds amount due from him.

23. If the owner of an original plot is not provided with a plot in the final scheme, or if the contribution to be levied from him under section 18 is less than the total amount to be deducted therefrom under any of the provisions of this Act, the net amount of his loss shall be payable to him by the local authority in cash, or in such other way as may be agreed upon by the parties.

Provision for case in which value of developed plot is less than amount payable by owner.

24. (*1*) If from any cause the total amount which would be due to the local authority under the provisions of this Act from the owner of a plot to be included in the final scheme exceeds the value of such plot estimated on the assumption that the scheme has been completed, the arbitrator shall, at the request of the local authority, direct the owner of such plot to make payment to the local authority of the amount of such excess.

(2) If such owner fails to make such payment within the prescribed period, the arbitrator shall, if the local authority so requests, acquire the original plot of such defaulter and apportion the compensation among the owner and other persons interested in the plot on payment by the local authority of the value of such plot estimated at its market value at the date of the declaration of intention to make a scheme and without reference to improvements contemplated in the scheme ; and thereupon the plot included in the final scheme shall vest absolutely in the local authority, free from all encumbrances but subject to the provisions of this Act :

provided that the payment made by the local authority on account of the value of the original plot shall not be included in the costs of the scheme.

Payment by adjustment of account.

25. All payments due to be made to any person by the local authority under this Act shall, as far as possible, be made by an adjustment in such person's account with the local authority in respect of the plot concerned or of any other plot in which he has an interest and failing such adjustment shall be paid in cash or in such other way as may be agreed upon by the parties.

Payment of net amount due to local authority.

26. (*1*) The net amount payable under the provisions of this Act by the owner of a plot included in the final scheme may at the option of the contributor be paid in one sum or in such instalments including charges for interest as shall be fixed by the local authority with the sanction of the Governor in Council in the City of Bombay or the Commissioner elsewhere.

(2) Where more than one plot included in the final scheme is in the same ownership the net amount payable by such owner under the provisions of this Act shall be distributed over his several plots in proportion to the increment which is estimated to accrue in respect of each plot unless the owner and the local authority agree to a different method of distribution.

Power of local authority to make agreements.

27. (*1*) A local authority shall be competent to make any agreement with any person in respect of any matter which is to be provided for in a town-planning scheme, subject to the power of the Governor in Council to modify or disallow such agreement and, unless it is otherwise expressly provided therein, such agreement shall take effect on and after the day on which the town-planning scheme comes into force.

(2) Such agreement shall not in any way affect the duties of the arbitrator or of the Tribunal of Arbitration as described in Chapter IV or the rights of third parties, but it shall be binding on the parties to the agreement notwithstanding any decision that may be passed by the arbitrator or by the Tribunal of Arbitration :

provided that if the agreement be modified by Government, either party shall have the option of avoiding it if he so elects.

Recovery of arrears.

28. Any sum due to the local authority under this Act which is not paid on the day when it becomes due shall be recovered by the Collector, according to law and under the rules for the time being in force for the recovery of arrears of land-revenue, on application being made to him by the local authority.

CHAPTER IV.—The Arbitrator and the Tribunal of Arbitration.

Appointment of arbitrator.

29. After a draft scheme has been sanctioned the Governor in Council shall appoint an arbitrator with sufficient establishment whose duties shall be as hereinafter provided.

Duties of the arbitrator.

30. In accordance with the prescribed procedure the arbitrator shall—

(*1*) after notice given by him in the prescribed manner define and where it is in his opinion necessary, demarcate the areas allotted to, or reserved for, the local authority, and the reconstituted plots ;

(*2*) after notice given by him in the prescribed manner determine, in a case in which a reconstituted plot is to be allotted to persons in ownership in common, the shares of such persons ;

(*3*) fix the difference between the total of the values of the original plots and the total of the values of the plots included in the final scheme, in accordance with the provisions contained in clause (*d*) of sub-section (*1*) of section 16 ;

(*4*) estimate the increment to accrue in respect of each plot included in the final scheme, in accordance with the provisions contained in section 17;

(*5*) calculate the proportion in which the increment of the plots included in the final scheme shall be liable to contribution to the costs of the scheme, in accordance with the provisions contained in section 18;

(*6*) calculate the contribution to be levied on each plot included in the final scheme;

(*7*) determine the amount to be deducted from or added to, as the case may be, the contributions leviable from a person, in accordance with the provisions contained in section 19;

(*8*) provide for the total or partial transfer of any right in an original plot to a reconstituted plot or provide for the extinction of any right in an original plot, in accordance with the provisions contained in section 20;

(*9*) estimate in reference to claims made before him, after notice given by him in the prescribed manner, the compensation to be paid to the owner of any property or right injuriously affected by the making of a town-planning scheme, in accordance with the provisions contained in section 21 and subject to the provisions contained in section 22;

(*10*) draw up in the prescribed form the final scheme in accordance with the draft scheme:

provided that—

(i) he may make variations from the draft scheme;

(ii) any variation estimated by him to involve an increase of ten per centum in the costs of the scheme as described in section 16 shall require the sanction of the Governor in Council:

provided further that he shall make no substantial variation without the consent of the local authority and without hearing any objections that may be raised by the owners concerned; and that in the case of any substantial variation made by him the owners concerned shall have the right of appeal to the Governor in Council.

Certain decisions of the arbitrator shall be final.

31. Except in matters arising out of clauses (*4*), (*5*), (*6*) and (*9*) of section 30, and subject to the provisos contained in clause (*10*) of section 30, every decision of the arbitrator shall be final and conclusive and binding on all persons.

32. In matters arising out of clauses (*4*), (*5*), (*6*) and (*9*) of section 30, the arbitrator shall estimate or calculate what is required by such clauses to be estimated or calculated and shall forthwith make proposals on all such matters to the President of the Tribunal of Arbitration for the decision of such Tribunal. Arbitrator shall make proposals in certain matters.

33. (*1*) The Tribunal of Arbitration shall consist of a President and two Assessors. Constitution of the Tribunal of Arbitration.

(*2*) The President shall, in the City of Bombay, be a person who holds or has held office as a Judge of the High Court of Judicature, to be appointed by the Chief Justice, in the district of Karachi, be such Additional Judicial Commissioner as may be appointed by the Judicial Commissioner, and elsewhere the District Judge.

(*3*) One of the Assessors shall be an impartial person to be appointed, in the City of Bombay, by such person who holds or has held office as a Judge of the High Court, in the district of Karachi, by such Additional Judicial Commissioner, and elsewhere by the District Judge.

(*4*) The other Assessor shall be the arbitrator.

(*5*) The President and the Assessor shall be appointed members of the Tribunal of Arbitration for such period as may be required by such Tribunal to decide in connection with a particular town-planning scheme all matters arising out of clauses (*4*), (*5*), (*6*) and (*9*) of section 30.

(*6*) The Governor in Council may, if he thinks fit, remove for inability or misconduct or any other good and sufficient reason the Assessor appointed under sub-section (*3*) or the Arbitrator.

(*7*) If any member of the Tribunal of Arbitration is removed or dies or refuses or neglects to act or becomes incapable of acting, the authority who appointed such member shall appoint forthwith a fit person to take the place of such member.

34. The Tribunal of Arbitration may sit either at the Headquarters of the President or at any other place, within the local limits of his jurisdiction, which he may consider convenient for the decision of any matter before such Tribunal. Place where the Tribunal may sit.

35. Every party to any proceeding before the Tribunal of Arbitration shall be entitled to appear either in person or by his recognised agent. Right to appear by recognised agent.

36. All questions of law and procedure shall be decided by the President. All other questions shall be decided by the President and the two Assessors or by the majority of them. Decision of questions of law and procedure and other questions.

Powers of the Tribunal to decide matters finally.

37. (*1*) After making such enquiry as the President may think fit the Tribunal of Arbitration may accept, modify, vary, or reject the proposals of the arbitrator and shall decide all matters arising out of clauses (*4*), (*5*), (*6*) and (*8*) of section 30.

(*2*) Every decision of the Tribunal of Arbitration shall be final and conclusive and binding on all persons.

Tribunal not a Court.

38. Nothing contained in this Act shall be deemed to constitute the Tribunal of Arbitration to be a Court.

Remuneration of arbitrator and Assessor and payment of incidental expenses of Tribunal.

39. (*1*) The arbitrator, the President of the Tribunal of Arbitration, and the Assessor shall, save where they are salaried officers of Government, be entitled to such remuneration, either by way of monthly salary or by way of fees or partly in one way and partly in the other, as the Governor in Council may from time to time determine.

(*2*) The salary of an arbitrator, a President of the Tribunal of Arbitration or an Assessor who is a salaried officer of Government, and any remuneration payable under sub-section (*1*) and all expenses incidental to the working of the Tribunal of Arbitration shall, unless the Governor in Council otherwise determines, be defrayed out of the funds of the local authority and shall be added to the costs of the scheme.

Final scheme.

40. (*1*) After the Tribunal of Arbitration has decided all matters arising out of clauses (*4*), (*5*), (*6*) and (*9*) of section 30, the arbitrator shall forward the final scheme through the local authority to the Governor in Council, who, on sanctioning the same, shall publish a notification relating thereto in the Bombay Government Gazette and in any other way which may be prescribed.

(*2*) In such notification it shall be stated where the final scheme is open to the inspection of the public and the price at which copies may be obtained, and a date not earlier than one month after the publication of such notification shall be fixed as the date on which all liabilities created by the scheme shall take effect and the final scheme shall come into force.

(*3*) On and after the date fixed in such notification a town planning scheme shall have effect as if it were enacted in this Act

Effect of final scheme.

41. On the day on which the final scheme comes into force—

(*a*) all lands required by the local authority shall, unless it is otherwise determined in such scheme, vest absolutely in the local authority free from all encumbrances;

(*b*) all rights in original plots which have been reconstituted shall determine and the reconstituted plots shall become subject to the rights settled by the arbitrator;

Power of local authority to evict summarily

42. On and after the day on which the final scheme comes into force any person continuing to occupy any land which he is not entitled to occupy under the final scheme may, in accordance with the prescribed procedure, be summarily evicted by the local authority.

Power to enforce scheme.

43. (*1*) On and after the day on which the final scheme comes into force the local authority may after giving the prescribed notice and in accordance with the provisions of the scheme—

(*a*) remove, pull down, or alter any building or other work in the area included in the scheme which is such as to contravene the scheme or in the erection or carrying out of which any provision of the scheme has not been complied with ;

(*b*) execute any work which it is the duty of any person to execute under the scheme in any case where it appears to the local authority that delay in the execution of the work would prejudice the efficient operation of the scheme.

(*2*) Any expenses incurred by a local authority under this section may be recovered from the persons in default in the manner hereinbefore provided for the recovery of sums due to the local authority under the provisions of this Act.

(*3*) If any question arises as to whether any building or work contravenes a town-planning scheme, or whether any provision of a town-planning scheme is not complied with in the erection or carrying out of any such building or work, that question shall be referred to the Governor in Council in the City of Bombay or the Commissioner elsewhere, and his decision shall be final and conclusive and binding on all persons.

Power to compel attendance of witnesses.

44. For the purposes of this Act an officer appointed under sub-section (*1*) of section 4, an arbitrator or a Tribunal of Arbitration may summon and enforce the attendance of witnesses including the parties interested or any of them and compel them to give evidence and compel the production of documents by the same means and, as far as possible, in the same manner as is provided in the case of a Civil Court by the [1] Code of Civil Procedure, 1908.

V of 1908.

CHAPTER V.—MISCELLANEOUS.

Joint town-planning schemes.

45. (*1*) When two or more local authorities are of opinion that the interests of contiguous areas within their respective jurisdictions can best be served by the making of a joint town-planning scheme, and the Governor in Council agrees with such opinion, a joint Town Planning Board shall be constituted.

[1] General Acts, Vol. VI.

(2) Such Board shall consist of representatives of each of the several local authorities and of persons nominated by the Governor in Council in such proportion as may be prescribed.

(3) The representatives of the several local authorities shall be elected in the prescribed manner on dates appointed by the Governor in Council in the City of Bombay and by the Commissioner elsewhere.

(4) Such Board, when duly constituted, shall make a declaration of intention to make a joint town planning scheme in respect of the contiguous areas in the manner provided in section 9 and thereafter the procedure shall follow all the provisions of this Act and such Board shall have all the powers and be liable to all the duties of a local authority under the provisions of this Act.

(5) The draft joint town-planning scheme shall specify the parts of the scheme to be executed by the several local authorities in the several contiguous areas and the several parts of the scheme shall, when notified in the final scheme, have effect in the several contiguous areas as if they were separate schemes :

provided that any part of a joint town-planning scheme may be executed jointly by two or more local authorities.

Vesting of property and rights of a local authority ceasing to exist or ceasing to have jurisdiction.

[1][**45A.** When any local authority ceases to exist or ceases to have jurisdiction over any area included in a town planning scheme the property and rights vested in such local authority under this Act shall, subject to all charges and liabilities affecting the same, vest in such other local authority or authorities as the Governor in Council may, with the consent of such authority or authorities, by notification in the Bombay Government Gazette direct; and such local authority or each one of such local authorities shall have all the powers under this Act in respect of such scheme or such part of a scheme as comes within its jurisdiction which the local authority ceasing to exist or ceasing to have jurisdiction had.]

Power to vary or revoke a town-planning scheme.

46. (1) A town planning scheme may at any time be varied or revoked by a subsequent scheme prepared, published and sanctioned in accordance with this Act.

(2) The Governor in Council, on the application of the local authority or of any person appearing to him to be interested, may at any time, by notification in the Bombay Government Gazette, revoke a town-planning scheme if he thinks that under the special circumstances of the case the scheme should be so revoked.

[1] Section 45A was inserted by s. 2 of the City of Bombay Police (Amendment) Act, 1920 (Bom. Act 6 of 1920), *infra*.

Compensation when final scheme is varied or revoked.

47. If at any time after the day on which the final scheme has come into force such scheme is varied or revoked, any person who has incurred expenditure for the purpose of complying with such scheme shall be entitled to receive compensation from the local authority, in so far as any such expenditure is rendered abortive by reason of the variation or revocation of such scheme.

Governor in Council may himself or through any person exercise power or perform duty conferred or imposed on a local authority.

48. If in the opinion of the Governor in Council any local authority is not competent to exercise or perform, or neglects or fails to exercise or perform, any power conferred or duty imposed upon it under any of the provisions of this Act, the Governor in Council, or any person or persons appointed in this behalf by the Governor in Council, may exercise such power or perform such duty.

Bar of legal proceedings.

49. No suit or other legal proceeding shall be maintained in respect of the exercise of any discretion conferred by this Act or against any public servant or person duly appointed or authorised under this Act in respect of anything in good faith done or purporting to be done under the provisions thereof or the rules made thereunder.

Registration of document, plan or map in connection with a final scheme is not required.

50. (*1*) Nothing in the [1]Indian Registration Act, 1908, shall be deemed to require the registration of any document, plan or map prepared, made or sanctioned in connection with a final scheme which has come into force and which has not been revoked.

XVI of 1908.

(*2*) All such documents, plans and maps shall, for the purposes of sections 48 and 49 of the [1]Indian Registration Act, 1908, be deemed to have been and to be registered in accordance with the provisions of that Act:

XVI of 1908.

provided that documents, plans and maps relating to the sanctioned scheme shall be accessible to the public in the manner prescribed.

Land needed for purpose of town-planning scheme may be compulsorily acquired.

51. Land needed for the purpose of a town-planning scheme shall be deemed to be land needed for a public purpose, within the meaning of the [2]Land Acquisition Act, 1894.

I of 1894.

Rules.

52. (*1*) The Governor in Council may make rules consistent with the provisions of this Act to provide for all matters not specifically enacted therein.

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[1] General Acts, Vol. VI.
[2] General Acts., Vol. IV.

(*2*) In particular and without prejudice to the generality of the foregoing power such rules shall be made to determine the following matters : –

(*a*) the procedure to be followed by the officer appointed to hold an enquiry for the purpose of deciding a disputed claim as to ownership under section 4 ;

(*b*) the notice to be given under section 5 ;

(*c*) the manner of publication of a declaration of intention to make a scheme under sub-section (*2*) of section 9 ;

(*d*) the manner of publication of a draft scheme under section 10 ;

(*e*) the further particulars to be prescribed for inclusion in the draft scheme under clause (*f*) of section 11 ;

(*f*) the form of the commencement certificate to be granted by a local authority under clause (*a*) of sub-section (*1*) of section 15 and the conditions, if any, to be included therein ;

(*g*) the procedure to be followed by a local authority in making an enquiry under clause (*e*) of sub-section (*1*) of section 15 ;

(*h*) the time to be allowed for making a claim to compensation under section 21 ;

(*i*) the period within which payment is to be made to the local authority under section 24 ;

(*j*) the procedure to be prescribed under section 30 and the notices to be given under sub-sections (*1*), (*2*) and (*9*) of that section ;

(*k*) the form in which the arbitrator is to draw up the final scheme under sub-section (*10*) of section 30 ;

(*l*) the way in which the [1][Governor in Council] is to publish a notification relating to the final scheme under sub-section (*1*) of section 40 ;

(*m*) the procedure to be followed by the local authority in summarily evicting a person under section 42 ;

(*n*) the notice to be given by the local authority before it takes action under section 43 ;

(*o*) the proportion of elected and nominated persons on a Joint Planning Board under sub-section (*2*) of section 45 ;

(*p*) the manner of election of representatives of the several local authorities under sub-section (*3*) of section 45 ;

[1]These words were substituted for the words " local authority " by s. 4 of the Bombay Town Planning (Amendment) Act, 1920 (Bom. Act 13 of 1920), *infra*.

(*q*) the manner in which documents, plans and maps shall be made accessible to the public under the proviso to section 50;

(*r*) the procedure to be adopted for securing co-operation on the part of the local authority with the owners or persons interested in land proposed to be included in a town-planning scheme at every stage of the proceedings by means of conferences and such other means as may be expedient;

(*s*) the procedure to be followed by an arbitrator appointed under this Act;

(*t*) the procedure to be followed by a Tribunal of Arbitration under this Act;

(*u*) the procedure to be followed generally in carrying out the provisions and objects of this Act;

(*v*) the extent to which the proceedings of local authorities under this Act shall be regulated by any municipal or local law applicable to such authorities.

(*3*) The power to make rules under this Act shall be subject to the condition of previous publication.

BOMBAY ACT No. II OF 1915.[1]

[THE SINDH COAST-LIGHTS ACT, 1915.]

[*20th May, 1915.*]

An Act to authorize the levy of dues on vessels for the provision of lights on the coast of the Province of Sind.

WHEREAS it is expedient to authorize the levy of dues on vessels for the provision of lights on the coast of the Province of Sind; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Sind Coast-lights Act, 1915. Short title and extent.

(*2*) It extends to the whole of the Province of Sind.

2. In this Act, unless there is anything repugnant in the subject or context— Definitions.

(*a*) "Customs Collector" means a Customs Collector appointed under the [2]Sea Customs Act, 1878, and includes any person appointed by the Commissioner in Sind to discharge the functions of a Customs Collector under this Act; and VIII of 1878

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[1]For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1914, Part VII, page 562; for Report of Select Committee, *see ibid*, 1915, Part VII, page 90; and for Proceedings in Council, *see ibid*, 1915, Part VII, pages 85 and 232.

[2]General Acts, Vol. II.